

**DEVELOPING THE COAL MINING  
SECTOR: THE INDONESIAN  
EXPERIENCE**

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**Activities and Publications:****1. Limited Circulation:**

- 1993 : Proposal and Terms of Reference on Coal Transportation  
1994 : Proposal and Terms of Reference on National Coal Policy

**2. Seminar/Conferences: About 13 papers on Coal at International Seminars/Workshop within 1993 – 1999, among other are:**

1999: 5<sup>th</sup> APEC Coal Flow Seminar at Yokohama, Japan February 3 – 6.

Paper presented: “Coal Development and it’s Challenges in Indonesia”.

1999: JCOAL International Seminar in Tokyo “Global Warming Issue and Indonesian Coal Policy”, September 6-8.

**3. 1994-95 : Closely engaged in drafting Coal Contract of Work.****Courses:**

Among other, Diklat SPAMA (Middle Management Course), July – October 1997

Jakarta, November ,2000

Dr. Ir. Boni Siahaan

# **Developing the Coal Mining Sector : Indonesian Experience**

## **Mining Laws and Regulations, Illegal Mining and Regional Autonomy**

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### **I. INTRODUCTION**

Over the past three decades, Indonesia's mining sector has experienced unprecedented growth. Today, Indonesia is the world's second largest tin producer, the third largest tin producer, the third largest exporter of steam coal, and ranked third in copper production. The economy hosts world class mining operations, including the PT. Kaltim Prima Coal coal mine in East Kalimantan, the Freeport's Grasberg copper-gold mine in Papua (Irian Jaya), and INCO's nickel mine at Soroako, South Sulawesi.

The success of the mining industry is inseparable from past government policies with a regulatory regime that has encouraged investment. Over the years, the Indonesian government has been sensitive to the needs of the industry, as well as to the contribution the industry makes to Indonesia's economy. The Contract of Work (CoW) and the Coal Contract of Work (CCoW) policies have served as the corner stones to the regulatory framework.

In the past mining companies depended on CoW and CCoW documents as their sole reliable guide to operate in Indonesia. When there were conflicts between local community matters and the mine, companies reported these disputes to the Ministry of Mines and Energy in Jakarta to settle.

Indonesia facing a new beginning with new challenges. In November 1999, Indonesia's Parliament issued new laws which grant new authority, to regional governments Laws No. 22 and 25 of 1999. Mining companies can no longer fully depend on the central government or the President to protect their development projects. Conflicts and disputes will have to be addressed by the mining companies themselves and on to their good cooperation with provincial and regional administrations and the local people. The present with effort with the Directorate General of Mines is to prepare for the smooth transfer of authority to regional administrations.

## **II. MINING LAWS AND REGULATIONS**

### **Mining in Indonesia**

#### **Before World War II**

Mining in Indonesia which started some centuries ago. Gold and silver were the minerals which attracted the Chinese and Indian who came to Indonesia. Tin is also among the long known minerals and it is reported that the Verenigde Oost Indie Compagnie (VOC) and Sultan of Palembang had signed contract on tin sale in the 15<sup>th</sup> century.

In 1899 during the Dutch colony era, a mining law known as Indische Mijnwet (Indie Mining Law) conducive was issued by the Dutch and was in effective up to 1907. Since this law was not considered conducive to private investment participation, adjustments were made in 1910. During World War I, the Dutch recognized the strategic value of coal mining and announced the change in the prevailing law. Coal and oil mining would no longer be granted to the private sector anymore. In cases where the government of the Dutch Indies was not able to undertake the mining it self, it would be contracted to other parties based on paragraph 5A of Indische Mijnwet. Towards the fall of Dutch Indies government at the end of 1938, there were 268 Mining Concessions, three mining companies owned by the Dutch East Indie government, two joint venture companies between the government and private companies and 14, 5A Contracts in exploration and 34 in exploitation stages.

#### **World War II (1942-1945) and Independence Revolution (1945-1949)**

Anticipating the invasion of the Japanese, many mines were destroyed by the colonial government in early 1942. However, under the Japanese administration, rehabilitation of destroyed mines took a relatively short time. Some of the rehabilitated mines were coal mines in Banten (West Jawa), Logas (West Sumatra), and Laut Island (East Kalimantan), copper mine in Tirtomoyo (Central Jawa) and a nickel mine in Soroako (South East Sulawesi).

#### **1950-1966 Development**

This era was marked by unclear policy from the government that led to a liberal policy development. The government realized that mineral wealth could be used to raise funds to jump start national development. However most mining undertakings were held by foreign companies

under the policies of Indische Mijnwet Law. In 1951 there was a motion in the DPRS (Temporary People Legislative Assembly) by Teuku M. Hasan to urge the government to establish a State Committee on Mining Affairs within one month and to delay permit granting while waiting for the formation the Committee.

Between 1960 and 1966 the government tried to establish a pre development climate by issuing a Total National Development Plan implementation of the in 1960. This was devised by the National Development Council. In the mining sector, implementation of the government plan was realized through the issuance of Perpu No. 37 of 1960 concerning the establishment of State owned companies.

### **1966-1985 Development**

Stipulation of MPRS (Temporary People Advisory Assembly) No. XXIII of 1966 concerning Basic Policy on Economy, Finance and Development granted new opportunity for a private initiative and investment , allowing to private participation in national economic development. In parallel with that decree, Law No. 1 of 1967 concerning Foreign Investment was issued. Regarding mining, paragraph 8 of the law mentioned : Foreign investment in the mining sector is based on cooperation with the Government under a Contract of Work basis, ..... This was followed by Law No. 11 of 1967 concerning Basic Provision of Mining. Although this was considered centralistic it provides room for private participation. Participation of foreign investors was enabled by paragraph 10 that mentioned : the Minister may appoint other parties as contractors if necessary, whenever the government or State owned companies as the Mining Authorization holders were unable to conduct mining themselves. The Law succeed in attracting foreign investment in to Indonesia's mining sector.

Law No. 11 of 1967 the Basic Mining Provision consists of 12 chapters and 37 paragraphs. It contains among others a grouping and methods for controlling minerals, undertaking mineral development, mining authorisations, the nature of mining companies undertaking mineral development, the relationship between a mining authorisation and land rights, levies, taxes etc. The mineral grouping's (a strategic, b vital, and c/non a and non b) was dictated who could undertakes mineral development (Mining Authorisation/KP, Regional Mining Permit/SIPD, Contract of Work/KK, and Coal Contract of Work (PKP2B).

One important tool use by the government to attract foreign investment was taxation. In order to grant special condition in taxation and other levies for foreign investment, Presidential Instruction No. 18 of 1968 concerning Decision on Tax Dispensation, Government Regulation No. 21 of 1968 concerning Non-oil Mining and Natural Gas Undertaking, and Presidential Decree No. 49 of 1981 concerning Basic Agreement on Coal Mining Undertaking between PT. Tambang Batubara and Private Contractors were issued consecutively.

This policy was warmly receipt. From 1967 to 1984, 28 foreign investment project 's were recorded of which 8 were coal mining project's.

During 1966 - 1974, domestic coal consumption was limited by low cost oil, so the Loa Kulu (East Kalimantan) coal mine was closed. Prospects of coal development brightened after a world oil crisis at the end of 1973. Through Presidential Letter No. B-31 of 1976 it was instructed to Ministers of Kabinet Pembangunan II to take step in domestic coal development for power generation and industry.

In 1973, a contract between PN. Batubara and Shell Mijnbow NV was signed. The contract granted exploration rights in South Sumatra (Block A, B, C, D, E, and F) covering 71,449 km<sup>2</sup>. Another contract to explore Sinamar area (West Sumatra) was signed between Tambang Batubara Bukit Asam and PT. Riotinto Betlehem Indonesia.

In 1980, the new National Energy policy mentioned that Indonesian coal should be used to supply power and cement plants in order to substitute domestic oil consumption. In the same year, the government requested World Bank assistance to develop Bukit Asam's coal reserves to supply a new coal fired power plant to be built in Suralaya, West Jawa.

### **III. DEVELOPMENT OF THE COAL MINING SECTOR**

The first colliery in the former Netherlands Indies was started in Pengaron, 1849, East Kalimantan by Oost Borneo Maatschapij. Modern coal mining began with the operation of the government owned Ombilin mine in West Sumatra in 1892 and Bukit Asam in 1919. Ombilin mine was operated in conformity with the completion of railway development between Teluk Bayur - Sawahlunto about to 155 km. Since then coal mining activities in Sumatra and Kalimantan steadily expanded until the outbreak of the Pacific war in 1941. Two government coal

mines, both operating in Sumatra, and six privately owned collieries in East Kalimantan, together produced a total 2,028,875 tons of coal in 1941. In 1968 with the issuance of Government Regulation No. 23, the three operating coal mines Ombilin in West Sumatra, Bukit Asam in South Sumatra, and Mahakam in East Kalimantan, were unified under PN. Tambang Batubara, and the three mines became production units of the new company. In 1970, Mahakam (Loa Kulu) production unit was closed for economic considerations. Production cost's were increasing, the market outlook was gloomy due to shifting of power plants and industry to low cost oil.

Since the 1973 oil crisis, attention was again focused on coal. Bukit Asam production units became PT. Tambang Batubara Bukit Asam and was separated from PN. Tambang Batubara. Since the split in 1981, PN. Tambang Batubara retains only one production unit at Ombilin in West Sumatra.

Aside from the oil crises in 1970's and 1980's, the main driving factors behind the rapid development in Indonesian coal production are : 1) relatively large coal deposits, suitable for open-pit mining with low to moderate stripping ratios, 2) low-sulfur steam coal for which there is an increasing world demand, 3) a relatively favorable investment climate for large scale (foreign) mining companies, and 4) geographic proximity to Asian markets.

### **Coal Potential**

Indonesia's coal resources are reported to be 38.84 billion tonnes (Table 1) of which measured reserves amount to 11.56 billion tonnes (1.17 % of total world coal reserves, BP Amoco, 1999). The coals ranges in age (from Pliocene to Permo-Carboniferous), but the majority are relatively young Tertiary deposits, from the Miocene. The majority of Indonesia's coal is lignite (58.63%) followed by subbituminous (26.63%), and bituminous (14.38%), as shown in Figure 1.

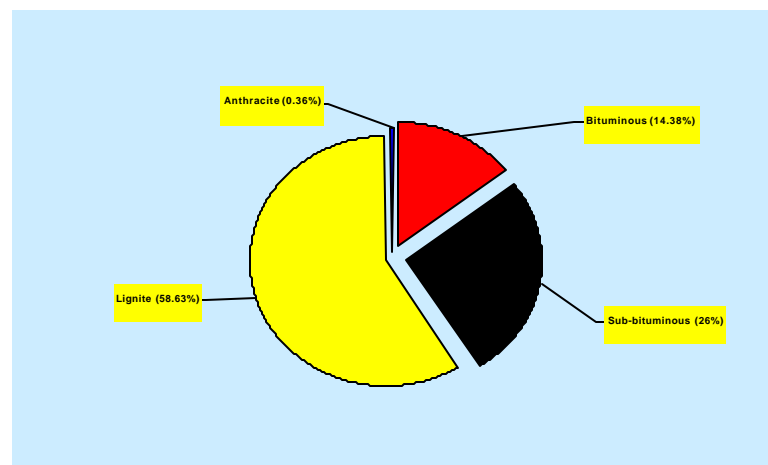
**Table 1.**  
**Indonesian Coal Resources**

(Million tonnes)

Region	Mineable	Measured	Indicated	Total
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Sumatera	2,863.15	4,902.03	12,599.28	17,501.31
Kalimantan	2,505.03	6,640.08	14,392.76	21,217.96
Java	0.00	0.63	4.86	5.49
Sout Sulawesi	0.00	0.00	21.20	117.33
Papua	0.00	0.00	25.53	25.53
Others	0.00	5.42	7.31	12.73
Total	5,368.18	11,568.73	27,306.13	38,874.86
Total Production (1937-1999)	440.02	0.00	0.00	0.00
Total unexploited	4,928.16	11,568.73	27,306.13	38,874.86

Source : Directorate of Coal, 2000



Source: Directorate of Coal

### Figure 1. Distribution of coal by rank

At present, 95% of Indonesia's coal production comes from open pit mines, most by conventional truck and shovel operations. Underground mining is found at Ombilin (West Sumatra), Kitadin, and Fajar Bumi Sakti (East Kalimantan). While these mines may expand their underground production, most of the additional coal production is expected to come from existing and new open pits.

### Structure of Coal Mining Industry

The players in coal mining development can be divided into the following four groups :



- The State Coal Company, PT. Tambang Batubara Bukit Asam (PTBA)
- Coal Contracting Companies
- Mining Authorisation (KP) holders
- Cooperative Units

The current share of each group in the economy wide output is shown in Table 2.

**Table 2.**  
**Indonesian coal production by group, 1995 - 1999**  
**Million tones**

Mines	1995	1996	1997	1998	1999
PTBA	7.98	9.23	9.96	9.86	11.21
Coal Contractor	30.98	37.82	40.60	47.06	57.60
KP holder	4.50	3.54	4.08	4.85	4.71
Cooperative Units	0.50	0.38	0.17	0.27	0.26
Total	43.96	50.97	54.81	62.04	73.78

*Source : Directorate of Coal, 2000*

As shown in Table 2, the average annual production growth in the last five years is 16.78%.

The current status and number of coal companies in Indonesia is as follows :

PT. Tambang Batubara Bukit Asam (PTBA) now merged with PN Tambang Batubara operates two mines namely Ombilin (West Sumatra) and Tanjung Enim (South Sumatra).

Contractors:

This group comprises 150 companies, permitted under four "generations" of CCoW:

- Generation 1 : 10 in the production stage (all but 2 are foreign companies), located in Kalimantan (9) and in Sumatra (1);

- Generation 2 : 5 in production stage, 1 in the construction stage, 2 under feasibility study, and 1 in the exploration stage, located in Kalimantan (13) and in Sumatra (4);
- Generation 3 : 68 signed contracts with the government in November 1997, while 14 signed contracts with the government in February 1998 (7 are foreign companies), and 28 signed contracts in March 1999; 3 of them have been granted presidential approval, and 6 signed the contract for ex CHOMD area; 15 of them have been terminated.
- Generation 4 includes: 28 companies, 8 of them were terminated.

KP (mining authorisation) holders. KP holders comprises a total of 104 companies; 48 in the exploration stage, 28 in the exploitation stage, and 32 in the development process from exploration to exploitation. Cooperative units. There are 11 active in the production stage and about 7 in the development stage.

### **Coal Production, Domestic Consumption, and Exports**

During the five year (1995 - 1999), the average annual growth rate of Indonesian coal production is 14.75%, while the annual growth rates for exports were 14.75% and 24% for domestic sales. The capability of existing mines to further increase output is relatively good.

### **Coal investment scheme through coal cooperation contract**

The investment scheme has evolved through the issuance of three Presidential Decrees. The details follow :

#### **Coal Cooperation Contract (CCC, Generation 1, 1981-1993)**

In 1981, the Government invited private parties, mainly foreign investors, to develop coal deposits. In the same year Presidential Decree No. 49 was issued to lay down principles for coal agreements concluded by State Coal Mining Enterprises (Perusahaan Negara Tambang Batubara, PNTB). These were different from the national private companies which were allowed to mine smaller coal deposits based on an ordinary mining license (Kuasa Pertambangan, KP or mining authorization) since 1972. These private parties could mine coal deposits that were reserved for the State and contained in 14

blocks located in Sumatra, Kalimantan, and Papua, by becoming a partner to a state coal company, the so-called coal contractors.

The state coal company is the holder of the mining license and the Contractor company undertook mining activities for the state mining company based on a contract system (called Coal Cooperation Contract). In 1984, the PNTB was transformed into State Coal Mining Company (Perusahaan Umum Tambang Batubara, PUTB) through Presidential Decree No. 28/1984. Until 1990 there were 11 coal agreements concluded by the PUTB which was then merged with State owned company PT Tambang Batubara into PT. Tambang Batubara Bukit Asam (PTBA). Of this, all but two are foreign companies. They are collectively referred to as generation 1 Coal Cooperation Contractors.

Basic elements of the arrangement (the Presidential Decree) were :

1. The PNTB as the mining authorization holder was responsible for the Contractor's operational management;
2. The PNTB held the title to all machinery and equipment purchased and imported by the Contractors;
3. The Contractors were obliged to provide minimum 13.5% of annual production to the PNTB;
4. The Contractors were obliged to pay 35% of taxable income as corporate tax for the first ten years of operation and 45% thereafter;
5. For foreign Contractors, by the end of five years of operation, 15% of the equity of the Contractor had to be offered for sale and be purchased by Indonesia nationals or entities, so by that by the end of tenth year of the operating period at least 51% of the total shares have been offered for Indonesian participation in the company;
6. If large quantities of coal are required in Indonesia which can not be met by the PNTB's production, the Contractor is obligated to sell part of their coal to PNTB at market prices in the South-West Pacific region.

### **CCC Generation 2 (1993-1996)**

Through Presidential Decree No. 21 of 1993, the door for private sector contracting that was closed in 1986, following the collapse of world oil price were officially re-opened. The Decree restricted application to domestic private sector investors.

The agreement based on the Presidential Decree No. 21 of 1993 attracted 19 companies and made some changes in the arrangement, as follows :

1. PTBA as the mining authorization holder was responsible for the Contractor's operational management;
2. Title to all machinery and equipment purchased by the Contractor would be held by the Contractor; and
3. Contractor is obliged to comply with the prevailing laws and regulations on taxation.

### **Coal Contract of Work (CCoW), Generation 3 (1996 up to now)**

Government issued the new arrangement for coal contracts through Presidential Decree No. 75 of 1996. The government upgraded the coal investment agreement for both foreign and domestic investment, where the Directorate General of Mines representing the government is took over the tasks of managing coal investment from the PTBA.

The basic elements of the CCoW arrangement are as follows :

1. The Contractor will directly conclude a coal contract with the government. As there will be no pre-existing mining authorization, the Contractors will be given "conjunctive title" where they have the right to proceed continuously from general survey to exploitation and sale in one package, subject to approval of a satisfactory Feasibility Study and Environmental Impact Analysis Report and conformity with the terms and conditions of the CCoW;
2. The Contractors are obliged to hand over 13.5% of its coal production value to the government in cash at FOB price at the Contractor's final load out in the contract area;
3. The Contractor is obliged to pay fixed taxes (prevailing tax regulation at the date of the Contract signing);
4. The Contractor (foreign investment company) will be required to sell part of its shares to Indonesian national or entities to comply with the new divestment scheme which is less strict than the previous scheme according to the Government Regulation No. 20 of 1994.

Under the Presidential Decree No. 75 of 1996, cooperation agreements on coal mining undertaking signed before the Decree became effective, remain valid for the term stated in the Agreement.

The Contract contains preambles and 33 articles regarding among other things : definitions, appointment and responsibility of the contractor, modus operandi, agreement area, activities period, government shares upon production, import and re-export facilities, promotion of national interests etc.

### **Application procedure of CCoW**

The improvement of both the application procedure and the contract is aimed at attracting more investment both from domestic and foreign investors. In the application process, the technology of Geographical Information System (GIS) has been utilized to shorten the procedure and enhance transparency. The sequential steps of the Generation 3 of the process CCoW application process is shown in Figure 2. The figure shows the complexity of the process, seriousness, and strength of the contract, since it involves Ministries of Mines and Energy and Investment Coordinating Board, the Parliament and the President. The strength of the contract grants certainty which is very important to the contractors in running their business.

## **IV. DECENTRALISATION (LAWS No. 22 and No. 25 of 1999)**

The preamble of Law No. 22 of 1999 contains consideration a), b), and c), as follows : a. That the administrative system of the Unitary State of the Republic of Indonesia according to the 1945 Constitution provides freedom of action to the Regions to conduct Regional Autonomy; b. that in the implementation of Regional Autonomy, it is deemed necessary to emphasize the principles of democracy, participation of the public, even distribution and justice, as well as recognizing given regional potential and diversity; c. that in meeting the challenge of global competition the development conditions, both domestic and foreign, as well as, it is necessary to implement Regional Autonomy by granting an extensive, concrete, and responsible authority to the regions proportionally,

realized by regulation, distribution, and utilization of national resources, .....

Referring to the preamble, the Regional Autonomy should be viewed as an instrument of decentralization-democratization in the framework of unity and diversity of the nation, and the autonomy for regional people. Among the considerations of the Law are the Stipulation of the People's Consultative Assembly of the Republic of Indonesia No. XV of 1998 concerning Implementation of Regional Autonomy; Fair regulation, distribution and utilization of National resources and Financial proportion between the Central Government and the Regional Administration in the framework of the Unitary State of the Republic of Indonesia and the Stipulation of the People's Consultative Assembly of the Republic of Indonesia No. IV of 1999 concerning Main Lines of State Direction Of 1999-2004. The Law contains 19 chapters, comprises of among other : general provisions, principles of regional administration financing, receipts sources of decentralization implementation, financial management and accountability in deconcentration execution, financial management and accountability in assistance task execution etc.

Law No. 22 of 1999 was issued concurrently with Law No.25 of 1999 concerning Financial Proportional between the Central Government and the Regional Administration.

Relating to decentralisation, undertaking of non-metal mineral mining development is shortly discussed. According to the Basic Mining Provision Law No. 11 of 1967, non-metal mineral was included in c mineral group (non- strategic and non-vital group). It was regulated further through the issuance of Government Regulation No. 37 of 1986 concerning Transfer of Part of Government Authority to Regional Government (Province) that undertaking of c mineral group development was managed by Regional Government where mineral was discovered (permit issued by Regional Government called SIPD). In other words within the Department of Mining and Energy, decentralisation had been started long time before the issuance of Law No. 22 of 1999. Actually, c mineral group had been mined vastly throughout Indonesia. On the other hand, up to 1985 only 13 Provinces out of 27 in Indonesia that posses Regional Regulation on c group mining undertaking legalized by Ministry of Internal Affair. Another facts found were in general the ability of regional beaurocrats to build and monitor c group mining undertaking were low. It led to bring about the activities of illegal mining and difficulties to obtain data and information on c group mining.

## **Impact of the issuance of the Laws**

Law No. 22 of 1999 gives more authority to the regional governments. Consequently, CCoWs will fall to the provincial and regional governments' domain. CCoWs have been "the government's" domain which centered in Jakarta. Previous experience showed that the Directorate General of Mines, Ministry of Mines and Energy office in Jakarta has been a "one stop shop" for all mining matters across the economy. There are 26 provinces and 336 regencies in Indonesia, but not all provinces and regencies will be affected by mining matters because they are not all endowed with mineral potential. This decentralisation should be not be viewed as the excess of centralization. The CCoW Article 1 regarding Definitions, clearly states that "Government means the Government of the Republic of Indonesia, its Ministers, Departments, Agencies and Instrumentality, and Regional, Provincial or District Authorities. Problems may be inevitable because some regional administrators lack a good understanding of mining and its regulatory process. Educating people through training, upgrading courses focused on regional government administrators will assist them to understand the Laws and to implement them better. Since there will be a transfer of mining management from the Department of Mines and Energy (now Department of Energy and Mineral Resources) to regional administration, Law No. 11 of 1967 will no longer be valid and will soon be replaced by a new law on mining. This new law should consider conflicts between globalisation trends (privatization, foreign investment, free competition) and domestic trends (people economy, economy construction through small-middle business, state owned company, partnership, protection).

Concerning "*the blank cheque*", Government Regulation Number 25 of 2000 regarding Government Authority and Province Authority as Autonomy Area had been issued. This Government Regulation shall be followed by the issuance of Ministerial Decree on sectoral policy (which should refer to Government Regulation No. 25 of 2000) and Regional Regulation on implementation of regional autonomy of regency and town. Regarding ministerial Decree on Regional Autonomy in non-oil mining is now in finalistage.

Law No. 25 of 1999 also specifies to which government levels mining companies will pay royalties. Provincial governments will receive 80% of royalties generated by mining in their provinces. Out of this 80% of the royalties awarded in the province, 32% will be granted to the regency where the mine(s) is located, 32% distributed equally to the remaining

regencies in the province, and 16% to the province itself. Procedures for the payment still need to be developed.

### **Measures to minimize the impact**

To minimize the adverse effect of the implementation of the regional autonomy, measures should be taken to ensure more certainty to the investors as follows :

- A similar understanding now shown by the Ministry of Mines and Energy about the mining industry and its unique characteristics and needs should be gained by regional administrations;
- The implementation of Laws No. 22 and 25 of 1999 which will begin in early 2001, may need a longer time. In the mean time well planned training and courses for the regional administrators should be done;
- Recalling that the spirit of regional autonomy is increasing the participation of public, consideration should be given to involving all stakeholders in the process of regulatory reform, including communities, employees, governments, and investors;
- Indonesian government and national leaders should send a strong signal to the international mining and investment communities that they are aware of the industry concerns and needs and that they are addressing the situation.

## **V. ILLEGAL MINING**

The first official illegal mining activity, (Lusang Mining (gold), Lebong Tandai (Bengkulu Province, South Sumatra) in the early 1980's. Later illegal mining spread to coal, tin, diamond, and even c group mineral mining.

Illegal mining can be divided into three groups as follows :

1. Illegal mining done by local people, traditionally using simple tools  
Characteristics :
  - working areas limited to their surround (home, paddy field);
  - tools used are very simple, consists of mattock (hoelike tool), shovel, pan;



- small number of man power involved (two to three people, one family);
- environmental impact of the activity relatively small;
- the outcomes of the activity is directly sold to buyers/market.

In some cases, this kind of illegal mining can be changed to semi organized activities when there is an investor involved.

## 2. Illegal mining as side activity (of farming etc)

Characteristics :

- to get extra income, while not involving in main job or waiting for harvest time;
- small group, between 10 - 20 people;
- local people.

## 3. Illegal mining done outsiders, usually in an a organized manner.

Characteristics :

- organized activity supported by skilled workers and modern equipment;
- working areas may reach hundreds or thousands hectares, and even penetrates officially mining areas or protecting forest;
- number of man power involved may reach 20 - 100 people according to the size of the working area;
- Equipment used relatively modern such as dozers, excavators, and dump trucks;
- activity done based on limited contract or continuously until the existing mineral reserves extracted;
- operating cost high and provided by the investor;
- the outcomes is collected in a stockyard before goes to buyers/market.

Emergence of illegal mining activity due to :

- 1) Lack of understanding of local people concerning the law of mining especially regarding the undertaking of mineral development and lack of socializing of mining laws by the authority;

- 2) Almost there is no socialization of borders of mining areas to local people;
- 3) No clear acts of the authority towards the illegal miners;
- 4) There are market for the outcomes of such activities;
- 5) There is an easy access to equipments rent surround the existing (official) mines;
- 6) There is an involvement of some individual authority in the activity.

Negative impacts of the illegal mining :

- 1) Degradation of ecosystem surrounding the location of illegal activities;
- 2) Deteriorating infrastructure surrounding the location;
- 3) Price distortion of mineral commodities;
- 4) Accidents due to lack of skill; and hazardous chemicals
- 5) Economy suffers from closes of state revenue.

Positive impacts :

- 1) To certain extent there is an opportunity to develop local economy surrounding the location of the illegal activity;
- 2) The opening of isolated areas;
- 3) Opportunity to social intercourse for some ethnics group.

Illegal mining examples

Some cases are recorded in the following:

- 1) Within coal mining areas
  - six locations in PTBA's areas in Ombilin, West Sumatra.
  - 24 locations in coal mining areas in East Kalimantan.
- 2) Within tin mining areas
  - 10 locations in Riau Province.
- 3) Within diamond mining areas
  - 30 locations in South Kalimantan.
- 4) Within gold mining areas
  - 70 locations in Sumatra.
  - 15 locations in Sulawesi.
  - two locations in East Nusa Tenggara.
  - 213 locations in West Jawa.

Recent information on this illegal mining by some observers is that the roots of the problems is the prolonged economic crisis and the uncertainty in law enforcement. In addition to those are:

- investors have not been considering how to make the neighboring community interested and empowered by their project in spite of the fact that it has been laid down by law that any project should be able to cooperate with the surrounding community;
- jealousy in the local community because of the influx of higher paid foreign workers for jobs at the same level as those filled by locals;
- there has been little upgrading of the capability of local people. Companies prefer to import workers from Jawa, such as truck drivers, welders, computer operators etc.

Measures to reduce illegal mining

The above items should be considered in the effort to settle the conflict.

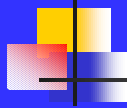
## **VI. CONCLUDING REMARKS**

1. Evolution of the Indonesian mining industry and its related laws and regulations have been addressed. The success of the mining industry is inseparable from past government policies and a regulatory regime that have encouraged investment.
2. Previous conditions before the issuance of regional autonomy law and the "impact" of the autonomy has been addressed. The concerns of investors with regard to the decentralization and the efforts by the government to re-establish its position as an attractive destination for coal (mining) investment has been addressed;
3. Skepticism has developed among the investors regarding the ability of regional administrators to identify the needs of the industry while waiting for the implementation of the regional autonomy in May 2001. However, well planned training courses for regional administrators coupled with the efforts by the Ministry of Mines and Energy (Directorate General of Mines) Jakarta office to gradually transform itself to a "policy (making) institution" will help to lessen the risk of investment skepticism; and

4. Cooperation between the Minister of Mining and Energy Jakarta office and the regional administrators will accelerate the smooth transfer of authority from the central to regional administrators.
5. The roots of the problems and the additional cause of illegal mining should be considered in effort to settle the conflict by getting together the three parties involved, namely the mining operators, the workers, and the neighboring community.

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7. 40 tahun Peranan Pertambangan dan Energi di Indonesia 1945 – 1985, Departemen Pertambangan dan Energi, 1985;
8. Undang-Undang Republik Indonesia Nomor 11 Tahun 1990 Tentang Ketentuan-Ketentuan Pokok Pertambangan.

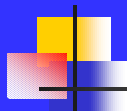


**Developing the Coal Mining Sector : Indonesian  
Experience Mining Laws and Regulations, Illegal  
Mining and Regional Autonomy**

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**Boni Siahaan  
Directorate of Coal, Directorate General of Mines**

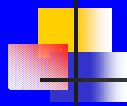
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## **CONTENTS**

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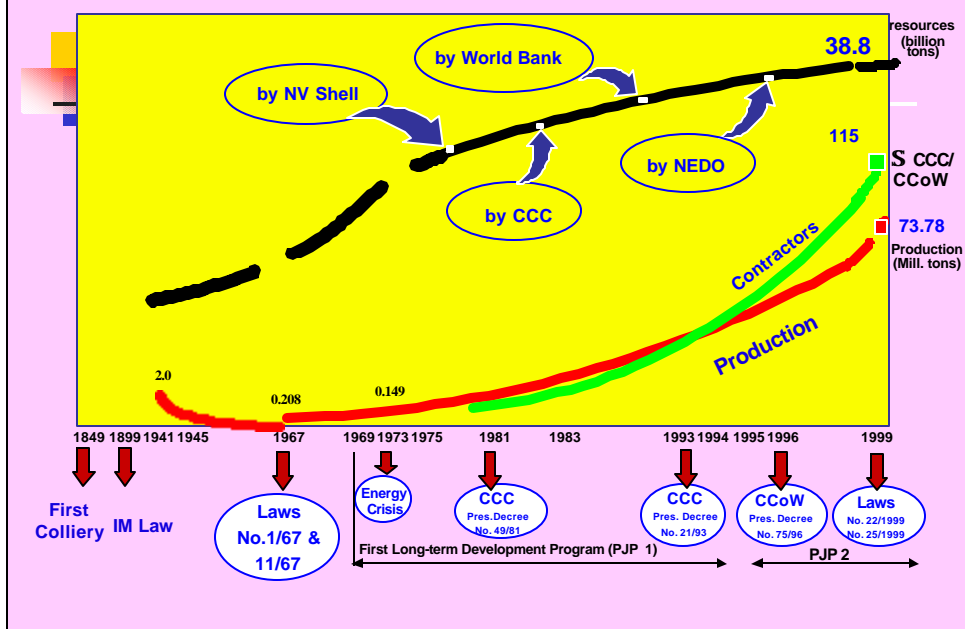
- I. INTRODUCTION**
- II. MINING LAWS AND REGULATIONS**
- III. DEVELOPMENT OF THE COAL MINING SECTOR**
- IV. DECENTRALISATION (LAWS No. 22 and No. 25 of 1999)**
- V. ILLEGAL MINING**
- VI. CONCLUDING REMARKS**

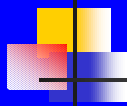


## Mining Laws and Regulations Highlights

- Up to 1959
  - Indie Mining Law issued in 1899
  - Motion of Teuku M. Hasan in the DPRS, 1951
  - Law No. 10 of 1959 concerning Cancellation of mining rights
- Law (Perpu) No. 37 of 1960 concerning Mining:
  - etatism and centralistic
  - no room for foreign investment
- Law No. 1 of 1967 concerning Foreign Investment
- Law No. 11 of 1967 concerning Basic Provision of Mining
  - Centralistic,
  - provides room for private participation and foreign investment:
- Coal investment scheme through contract (1981 – 1996)
- Law No. 22 of 1999 concerning Regional Autonomy

## HISTORICAL REVIEW OF INDONESIAN COAL MINING

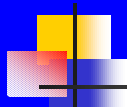




### **III. DEVELOPMENT OF THE COAL MINING SECTOR**

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- **Coal investment scheme through coal cooperation contract**
- **Coal Cooperation Contract (CCC, Generation 1, 1981-1993)**
- **CCC Generation 2 (1993-1996)**
- **Coal Contract of Work (CCoW), Generation 3 (1996 up to now)**
- **Application procedure of CCoW**



### **Coal Contract of Work (CCoW), Generation 3 (1996 up to now)**

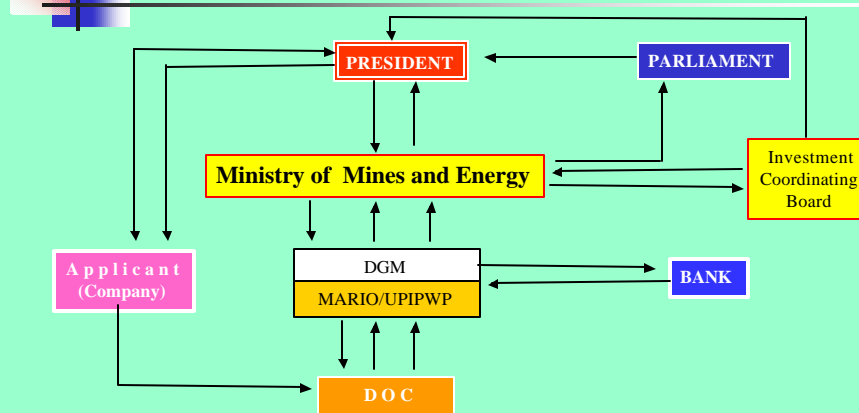
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**The basic elements of the CCoW arrangement are as follows :**

1. The Contractor will directly conclude a coal contract with the government. As there will be no pre-existing mining authorization, the Contractors will be given "conjunctive title" where they have the right to proceed continuously from general survey to exploitation and sale in one package, subject to approval of a satisfactory Feasibility Study and Environmental Impact Analysis Report and conformity with the terms and conditions of the CCoW;
2. The Contractors are obliged to hand over 13.5% of its coal production value to the government in cash at FOB price at the Contractor's final load out in the contract area;
3. The Contractor is obliged to pay fixed taxes (prevailing tax regulation at the date of the Contract signing);
4. The Contractor (foreign investment company) will be required to sell part of its shares to Indonesian national or entities to comply with the new divestment scheme which is less strict than the previous scheme according to the Government Regulation No. 20 of 1994.



### Sequential Steps of the Generation 3 of CCoW Application Process

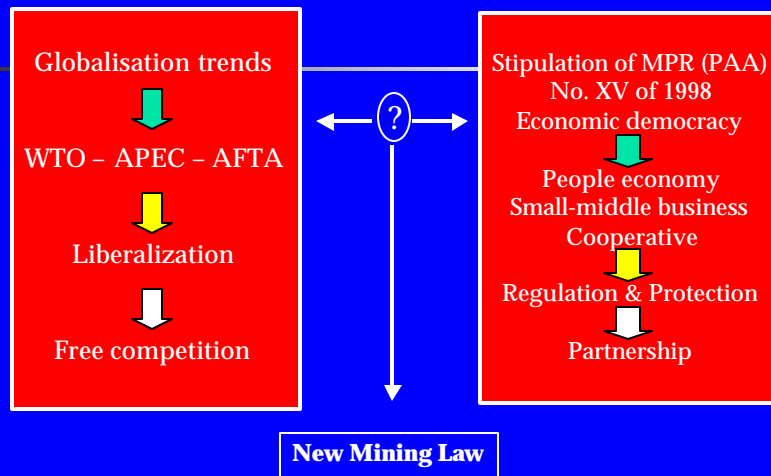


*Note:*  
It is not necessary to submit the CCoW contract  
to the President and Parliament for domestic investment

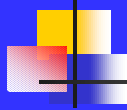
### IV. DECENTRALISATION (LAWS No. 22 and No. 25 of 1999)

- Impact of the issuance of the Laws
- Measures to minimize the impact

## Hierarchy of Laws and Regulations In Implementation of Regional Autonomy



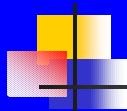
**Politics - economy policy trends  
in devising new mining law**



## **V. ILLEGAL MINING**

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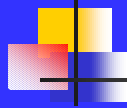
1. Illegal mining done by local people, traditionally using simple tools
2. Illegal mining as side activity (of farming etc)
3. Illegal mining done by outsiders, usually in an organized manner



## **VI. CONCLUDING REMARKS**

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1. Evolution of Indonesia mining industry and it's related laws and regulations have been addressed;
2. Previous conditions before the issuance of regional autonomy law and the "impact" of the autonomy have been addressed;
3. Skepticism has developed among the investors regarding the ability of regional administrators to identify the needs of the industry while waiting for the implementation of the regional autonomy;
4. Cooperation between the Minister of Energy and Mineral Resources Jakarta office and the regional administrations will accelerate the smooth transfer of authority;
5. The national leaders should send a strong signal to the international mining and investment community that they are mindful of the industry needs; and
6. Consideration should be given to involving all stakeholders in the process of regulatory reform, including communities.

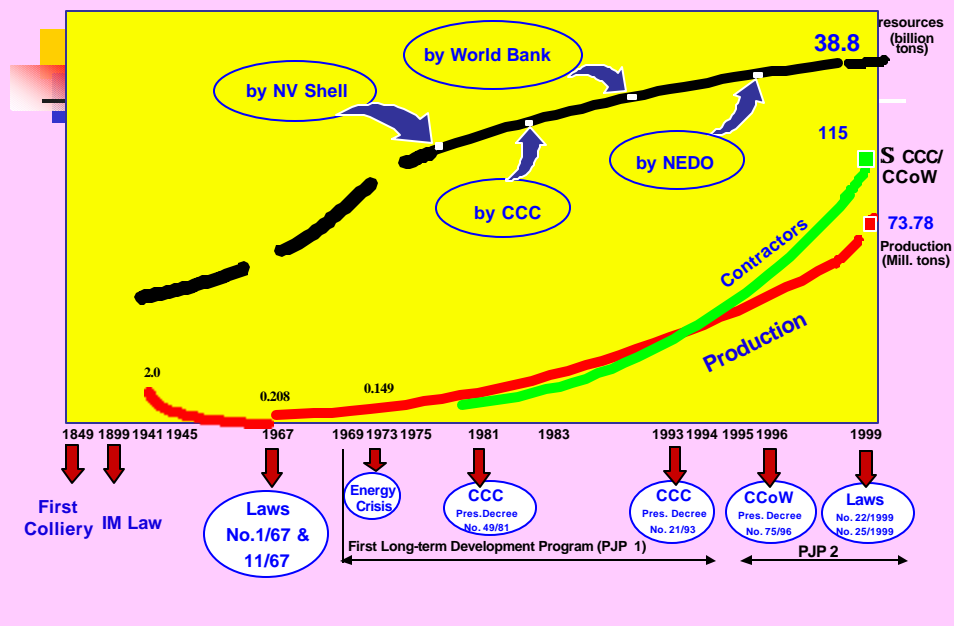


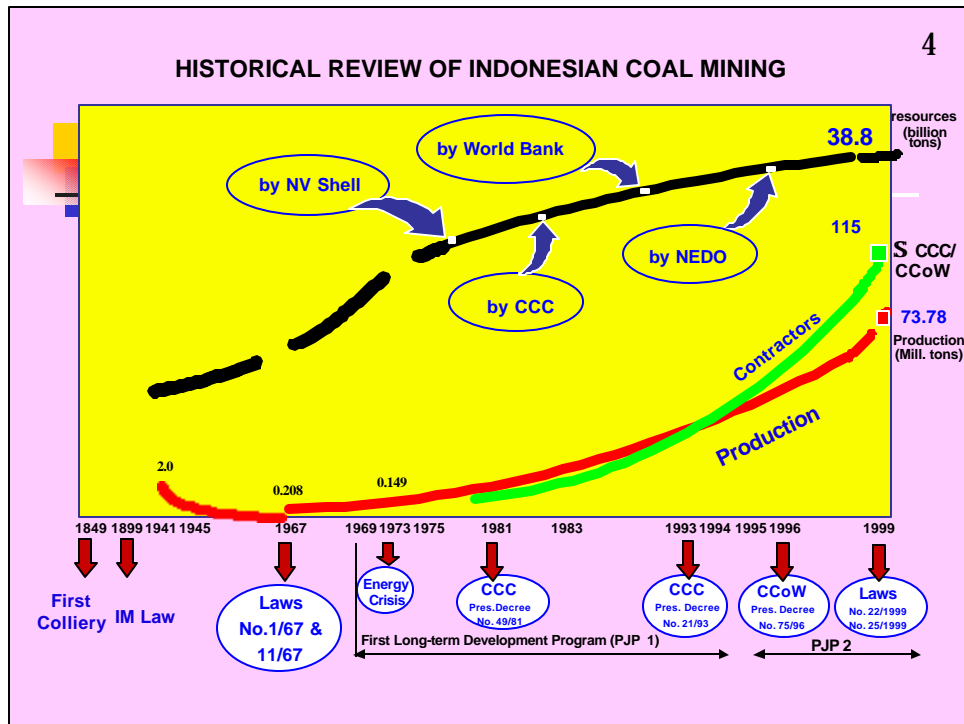
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### HISTORICAL REVIEW OF INDONESIAN COAL MINING





12

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